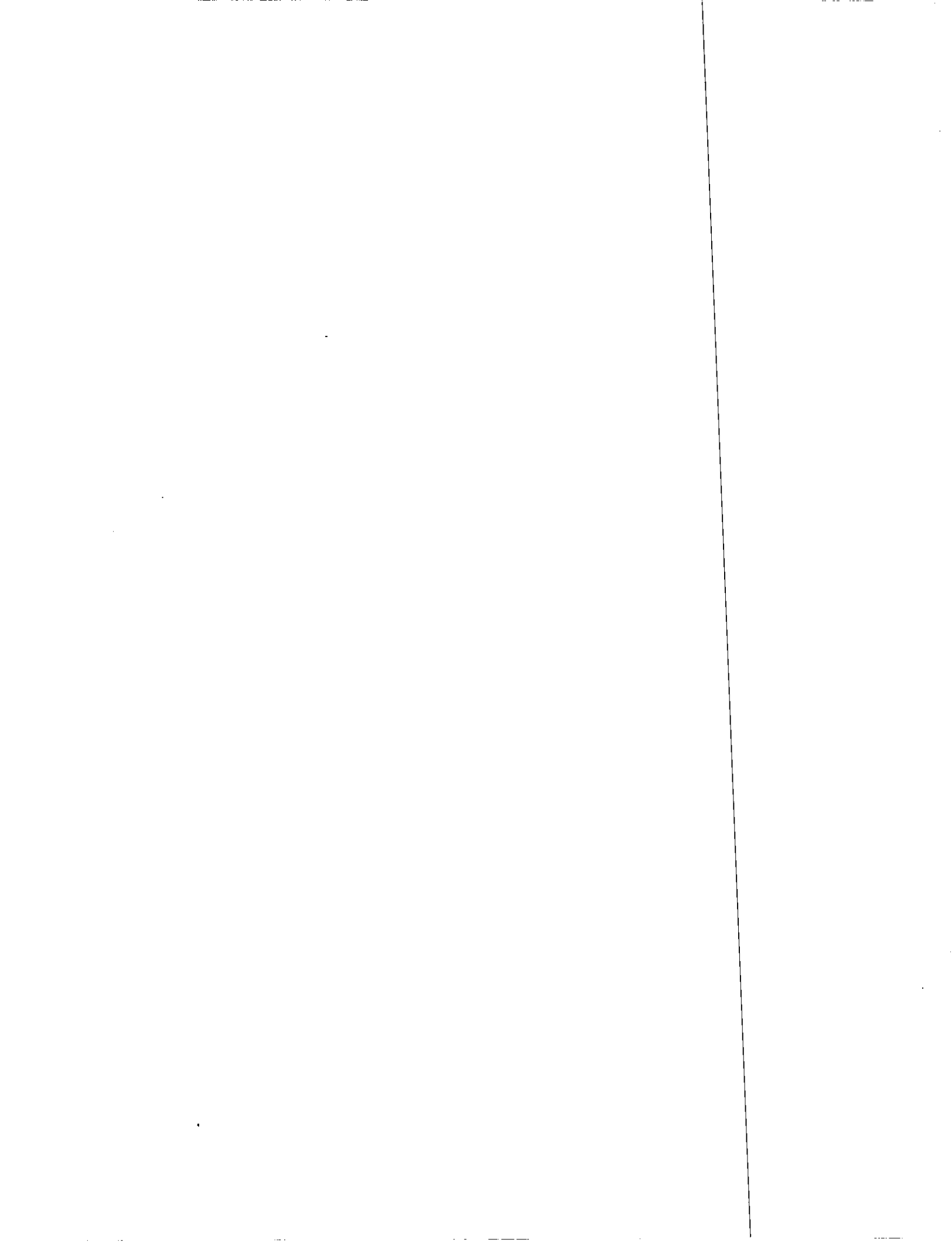


EXHIBIT A
TO FRANCHISE OFFERING CIRCULAR
FORM OF FRANCHISE AGREEMENT



**STEAK-OUT
UNIT FRANCHISE AGREEMENT**

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Edition Date: April 30, 2006

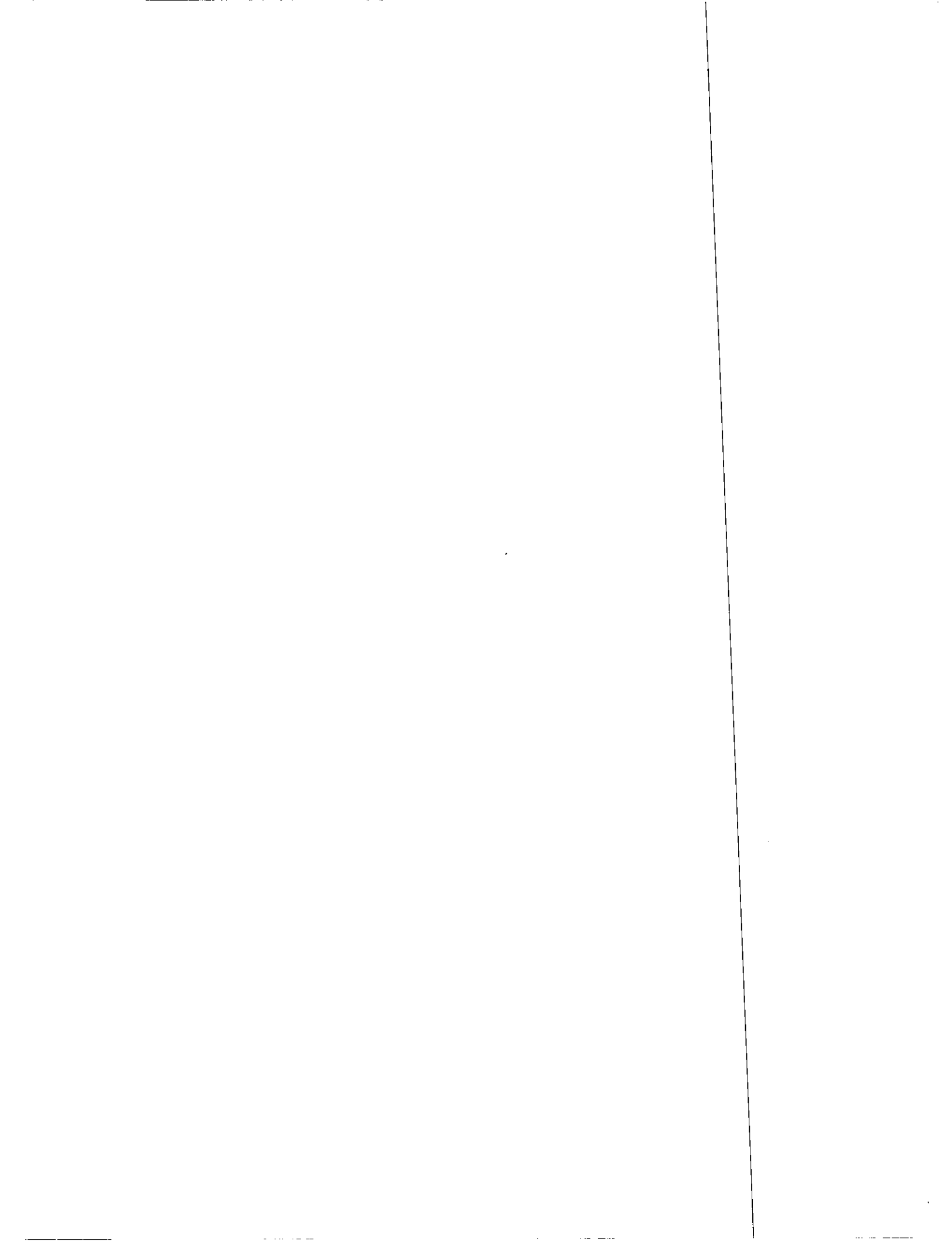


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This AGREEMENT made as of _____, _____, by and between Steak-Out Franchising, Inc., ("Franchisor") and _____, ("Franchisee"), and the Owners of the Franchisee as herein set forth. The principal place of business of each is set forth in Exhibit A.

WITNESSETH:

WHEREAS, Franchisor conducts a proprietary business pursuant to which it has a right to license the Licensed Marks and to require the business of the Franchisee, and its use of the Licensed Marks, to be conducted in a prescribed manner; and

WHEREAS, Franchisee and Owners, after fully considering the provisions hereof, reviewing the materials furnished by Franchisor, and making such investigations as they care to make, have made representations and given assurances to Franchisor and have requested to enter into this Agreement; and

WHEREAS, Franchisor is willing to enter into this Agreement in reliance upon the representations and assurances given by the Franchisee and the Owners;

NOW, THEREFORE, in consideration of the premises and mutual promises herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties have agreed as follows.

I

GRANT

Section 1.1. Grant of Franchise. Franchisor hereby grants to Franchisee the right to conduct the Business at the Premises (together the "Unit"), and to use the Licensed Marks and the Steak-Out System thereat, upon the terms herein set forth.

a. This grant applies to one Unit, located as set forth in Exhibit B. This Agreement applies only to the Business and the Premises on which that Unit is located, and conveys no rights to any other unit, premises or business.

b. Delivery and other operations of the Business may be conducted only within the Delivery Area, as hereinafter defined.

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c. The license to sell freshly cooked foods in the Delivery Area, subject to nonsubstantial or inadvertent encroachments, with respect to the type of Business conducted at the Unit during the term of this Agreement and so long as Franchisee is not in default hereunder, is exclusive to the Franchisee. Franchisor will grant no other Franchisee the right to deliver from a Steak-Out Unit located within the Delivery Area.

d. Unless otherwise approved by Franchisor, in its sole discretion, Franchisee shall conduct all aspects of the Business solely at the Premises.

e. Franchisee shall not conduct, or allow others to conduct, any other business or commercial operations from the Premises or as part of the Business.

f. Franchisee understands and agrees that Franchisor reserves the right, either directly or through affiliates, to operate or franchise or license others to operate or franchise restaurants or other food related establishments or businesses other than Steak-Out Units, and Franchisee agrees that Franchisor and its affiliates may do so within the Delivery Area; provided, that such restaurants or food establishments or businesses do not operate Steak-Out Units on a delivery basis. Franchisor also reserves the right to develop, market and conduct any other business under the Marks or any other trademark.

g. This Agreement is subject to the terms of an Area Development Agreement between the parties, if one exists.

h. Owners, and each person who later becomes an Owner, hereby guarantee Franchisee's obligations hereunder, and shall further separately execute a guaranty agreement in the form attached hereto as Exhibit C.

II

TERM

Section 2.1. Initial Term. The "Initial Term" of this Agreement shall commence on the date first above written (the "Effective Date") and, unless earlier terminated pursuant to the provisions hereof, shall extend until the tenth anniversary thereof.

Section 2.2. Renewal Term. Provided the Renewal Conditions are met, Franchisee may renew the grant herein made for one (1) additional term of ten (10) years (the "Renewal Term"). The Renewal Conditions are:

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a. Franchisee shall have strictly complied with the provisions of this Agreement and all agreements collateral hereto, throughout its Initial Term and with any Area Development Agreement to which it is subject to the satisfaction of the Franchisor, in its sole discretion.

b. All other Steak-Out units which Franchisee then operates shall have complied with the provisions of their agreements throughout their terms to the satisfaction of Franchisor, in its sole discretion, and shall comply with Franchisor's then current standards and requirements.

c. Franchisee shall have submitted a lease of the Premises to be occupied, which Lease, Premises and Unit shall be subject to the approval of Franchisor in accord with Section III.

d. Franchisee shall refurbish the Unit to conform to then current standards specified by Franchisor.

e. Franchisee shall have executed a new Franchise Agreement in the form and containing the provisions then used by Franchisor with respect to new franchisees, which may contain provisions materially different from this Agreement, and shall meet Franchisor's criteria for the granting of new franchises at that time.

f. Franchisee shall pay to Franchisor a Renewal Fee in an amount and on a schedule specified by Franchisor as its then specification for Renewal Fees. The Renewal Fee currently specified is set forth in Exhibit D.

Section 2.3. Renewal Exercise. Franchisee shall exercise its option for a Renewal Term by giving Franchisor unconditional, written notice of exercise not less than six (6) nor more than twelve (12) months prior to the expiration of the Initial Term. Upon receipt of such notice Franchisor, in its sole discretion, shall determine whether Franchisee has satisfied the foregoing conditions. Within thirty (30) days after making such determination, Franchisor shall notify Franchisee in writing whether Franchisee is eligible to exercise its option for a Renewal Term. If eligible, Franchisee shall take all actions necessary to complete its renewal prior to thirty (30) days before the expiration of this Agreement.

Section 2.4. Expiration Upon Lease Termination. At the sole option of Franchisor, this Agreement shall expire prior to the stated expiration date of the Initial Term or any Renewal Term simultaneously with any termination or expiration of Franchisee's interest in any Premises Lease.

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III

PREMISES AND SPECIFIED AREA

Section 3.1. Premises. The Premises shall be in conformity with Franchisor's specifications and the Confidential Operations Manual. The Premises may be either owned or leased by Franchisee. Without limiting the foregoing, the Premises shall be at a location accepted by Franchisor, shall be subject to lease and/or ownership terms approved by Franchisor and shall have building plans approved by the Franchisor. Construction of the Premises shall be performed by a General Contractor approved by the Franchisor, and such building shall be constructed, furnished, maintained and refurbished in conformity with Franchisor's specifications. Franchisee's Lease of the Premises, (the "Premises Lease"), if any, shall be subject to Franchisor's approval.

Section 3.2. Delivery Area. The Business shall make no deliveries except within the geographic area specified by Franchisor from time to time ("the "Delivery Area"). The Delivery Area may be expanded or reduced by Franchisor in its sole discretion, upon sixty days prior written notice, to account for, among other things, changing market conditions, population changes, the extent to which Franchisee is fully serving available customers, and other relevant conditions. The Delivery Area shall not be reduced to an area encompassing less than the number of potential customers specified in Exhibit B or expanded to an area larger than can be reasonably fully served by the Unit, unless Franchisee otherwise agrees. The Delivery Area initially specified is described in Exhibit B.

Section 3.3. Relocation Application. In the event the Premises Lease is terminated or expires and cannot be renewed during the term of this Agreement, or otherwise for good business reasons not deemed by Franchisor to conflict with its objectives, Franchisee may apply to Franchisor for the right to relocate the Unit, which application shall not be unreasonably denied, provided that the Relocation Conditions are met. The Relocation Conditions are:

- a. The proposed new location is within the Delivery Area;
- b. Franchisee shall have strictly complied with the provisions of this Agreement throughout its term and with any Area Development Agreement to which it is subject to the satisfaction of the Franchisor, in its sole discretion;
- c. Franchisee's proposed new location and the lease thereon (which is also contemplated by the term Premises Lease, as used herein) is approved in writing by Franchisor;
- d. The proposed location does not conflict with or intrude upon the Permitted Area of any other Steak-Out unit;

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e. All other Steak-Out units which Franchisee then operates shall have complied with the provisions of their agreements throughout their terms to the satisfaction of Franchisor, in its sole discretion, and shall comply with Franchisor's then current standards and requirements;

f. Franchisee shall have submitted a lease of the Premises to be occupied, which Lease, Premises and Unit shall be subject to the approval of Franchisor;

g. Franchisee can commence business at such new location within ninety (90) days after the Relocation Application is approved and Franchisee is not in default of any obligation to a lender or other third party that would in Franchisor's opinion materially impact Franchisee's ability to conduct the Business; and

h. Franchisee has paid a Relocation Fee in the amount and on the schedule then specified by Franchisor and reimbursed Franchisor all out-of-pocket expenses with respect thereto. The Relocation Fee currently specified is set forth in Exhibit D.

Section 3.4. Sole Use Of Premises. Franchisee shall use the Premises solely for the operation of the Business in the manner and pursuant to the standards prescribed herein, in the Confidential Operations Manual or otherwise in writing, and shall refrain from using or permitting the use of the Premises for any other purpose or activity at any time.

Section 3.5 Maintenance Of Premises. Franchisee shall maintain the Premises, and all fixtures, furnishings, signs and equipment therein, in conformity with Franchisor's then current standards at all times during the term of this Agreement, and shall make such repairs and replacements thereto as Franchisor may require. Without limiting the generality of the foregoing, Franchisee specifically agrees:

a. to keep the Business at all times in a high degree of safety, sanitation, repair, order and condition, including, without limitation, such periodic repainting of the exterior and interior of the Unit, and such maintenance and repairs to all fixtures, furnishings, uniforms, signs and equipment as Franchisor may from time to time reasonably direct;

b. to meet and maintain at all times at least the minimum governmental standards and ratings applicable to the operation of the Business as required from time to time by Franchisor;

c. to cause its employees to wear apparel which conforms strictly to the specifications, design, color and style approved by Franchisor from time to time; and

d. to assure that all delivery vehicles shall be in good repair, shall at least meet minimum governmental standards for safety if owned or leased by Franchisee or Owners, shall be used solely

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in connection with the Business (other than for personal use if owned by independent delivery personnel) and shall be operated solely by persons who are properly licensed to operate such vehicles, and who shall obey all traffic laws and otherwise operate such vehicles in a safe manner.

Section 3.6 Refurbishment. Franchisee agrees that, in order to maintain a modern, safe, sanitary and uniform image, Franchisor shall have the right, at any time and from time to time after the expiration of five (5) years from the Effective Date (or sooner with respect to delivery vehicles, damage or deterioration) in the reasonable discretion of Franchisor and with respect to parts of the Business not in compliance with Franchisor's standards to require Franchisee to perform such remodeling, repairs, replacements and redecoration in and upon the Premises, equipment (including delivery vehicles) and furnishings used by Franchisee as Franchisor shall deem appropriate to bring the Premises, including equipment and fixtures, up to the then current standards of newly developed Steak-Out units. Franchisee shall complete such remodeling, repairs, replacements and redecoration within four months from the date refurbishment notice is issued by Franchisor.

IV

CERTAIN DEFINITIONS

Section 4.1 Certain Terms Used in the Agreement.

a. **"Accounting Period"** - Franchisor utilizes a 52-53 week fiscal year that ends on the Sunday closest to the last day of the calendar year. Franchisor's fiscal year is divided into accounting periods. The length of an accounting period shall be set by the Franchisor.

b. **"Affiliate"** - Any individual person or legal entity that directly or indirectly owns or controls an entity, that is directly or indirectly owned or controlled by any such entity, or that is under common control with the such entity. For purposes of this definition, "control" means the power to direct, cause the direction of or substantially influence the management and policies of an entity, whether through ownership of stock or debt or otherwise, and any member of an Owner's Immediate Family shall be deemed to control or be controlled by Franchisee.

c. **"Area Development Agreement"** - The agreement defining the geographic area, if any, in which the Franchisee has right to develop additional Steak-Out units and the terms of that development. This Agreement is subject to an Area Development Agreement if the Franchisee has rights to develop such units in addition to the Unit contemplated hereby. However, this Agreement may also be entered into by franchisees that have no Area Development Agreement with Franchisor.

d. **"Business"** - The business conducted by the Franchisee at and from the Premises under the license granted hereby, which shall be confined to the delivery, take out and catering of

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food or other items as specified by Franchisor from time to time, and marketing incidental thereto, and which shall be conducted in accord with the Confidential Operations Manual. All other business activities of each and every kind are reserved to the Franchisor.

e. **"Competitive Business"** - Any business specializing in the delivery, take out or catering of food or other items as specified by Franchisor from time to time for use in Steak-Out units and/or any restaurant business specializing in delivery, takeout or catering of steaks, chicken or burgers, other than as a franchisee of the Steak-Out System.

f. **"Confidential Operations Manual"** - As referenced in Section XI and elsewhere refers to a series of individual manuals and written instruction, and periodic revisions thereto, including but not limited to operations manuals, marketing manuals, information systems manuals and training manuals.

g. **"Continuing Fee"** - As referenced in Sections 7.1 and 17.1 refers to the Royalties and Promotion and Development Fee.

h. **"Designated Manager"** - That person specified pursuant to Section 9.9.

i. **"Grand Opening Advertising"** - Activities and costs required of Franchisee by Section 12.3.

j. **"General Contractor"** - The prime contractor who is responsible for most of the work at the construction site, including that performed by the subcontractors. In some states and/or locales the general contractor is required to be licensed.

k. **"Immediate Family"** - Spouse, parents, brothers, sisters and children, whether natural or adopted.

l. **"Licensed Marks"** - The tradenames, trademarks, service marks, Trade Dress, logos, symbols, design patents and other indicia of origin as are now designated by Franchisor (or as may hereafter be designated by Franchisor) and/or owned by Franchisor and used to identify the services and/or products offered by Steak-Out units, as further designated by Franchisor from time to time. The current Licensed Marks are further identified in Exhibit E

m. **"Local Advertising"** - Activities and costs required of Franchisee by Section 12.2.

n. **"Offering Circular"** - The Franchisor's Franchise Offering Circular.

o. **"Operating Partner"** - The natural person contemplated by Section 5.2 and designated by Franchisee in Exhibit A, and approved by Franchisor, who shall be responsible for management of the Unit.

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p. **"Owner"** - Each person or entity that has a direct or indirect legal or beneficial ownership interest in Franchisee.

q. **"Permitted Area"** - means the combination of (1) the "Delivery Area" in which the Unit contemplated hereby may operate, as contemplated by Section 3.2 hereof, and (2) such additional "Development Area" as the Franchisee has pursuant to an Area Development Agreement, if one exists. The Permitted Area and the market therein contained shall belong to Franchisor, subject only to the limited right of use by Franchisee licensed herein.

r. **"Promotion"** - activities and costs contemplated by Section 12.1.

s. **"Premises"** - The location identified in Section 1.1 at which Franchisee has been granted the right to operate a Steak-Out unit pursuant to this Agreement.

t. **"Premises Lease"** - The Lease of the Premises which must comply with the requirements stated herein.

u. **"Relocation Conditions"** - The conditions set forth in Section 3.3.

v. **"Renewal Conditions"** - The conditions set forth in Section 2.2.

w. **"Royalty Sales"** - The aggregate gross amount of all revenues from whatever source derived or derivable (including proceeds of insurance or amounts paid by other parties for business interruption or diminution of sales), without discount or concession (whether in the form of cash, credit, agreements to pay or other consideration, and whether or not payment is received at the time of sale or any such amounts prove uncollectible), which arise from or are derived by Franchisee or by any other person from business conducted or which originated, in, on, from or through the Premises, or from the sale of any products or provision of any services associated with the use of the Licensed Marks, whether such business is conducted in compliance with or in violation of the terms of this Agreement, excluding only sales or other tax receipts from customers (the collection of which is required by law), provided the amount thereof is added to the selling price and actually paid by the Franchisee to the taxing authority. Special and product promotion revenues and complimentary or coupon meals and delivery, setup and other charges to the customer shall not be excluded from Royalty Sales.

x. **"System"** - The business methods, designs, equipment, configurations and arrangements for developing and operating Steak-Out units. The System includes, without limitation, the Licensed Marks, Trade Dress, the Confidential Operations Manual, building layouts, equipment, information systems, formulas and specifications for authorized food products and beverages, methods of inventory and operations control and certain business practices and policies. In connection therewith, Franchisor has developed a plan and system relating to the franchising of Units, specializing in the delivery, take-out and catering of steaks, burgers, chicken and other items,

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which system includes site evaluation, equipment selection and layouts, accounting methods, merchandising, advertising, sales and promotional techniques, personnel training, and other matters relating to the operation and promotion of such restaurant(s).

y. **"Telephone Number"** - The Telephone Number of the Business as required by Section 9.6 hereof, or other telephone and facsimile numbers used by the Business.

z. **"Trade Dress"** - The Unit design, decor and image, including uniforms, menu forms and layout and operating methods, which Franchisor authorizes and requires Franchisee to use in connection with the operation of a Unit, as it may be revised and further developed by Franchisor or its affiliates from time to time and as further described in the Confidential Operations Manual.

aa. **"Transfer Conditions"** - The conditions set forth in Section 15.3.

bb. **"Unit"** - The Steak-Out store, the Premises and the Business operated by Franchisee on the Premises pursuant to this Agreement.

V

ORGANIZATION AND MANAGEMENT OF FRANCHISEE

Section 5.1. Organization. Franchisee and each of its Owners represent, warrant and agree that:

a. Franchisee is either an existing corporate or other entity franchisee executing a new Franchise Agreement or a newly formed (as set forth in Exhibit F) corporation, limited partnership or limited liability company, (duly organized and validly existing under the laws of the state of its formation, and, if a foreign entity, is duly qualified to transact business in the state in which the Unit is located;

b. Franchisee and each of its Owners have the authority to execute, deliver and perform its obligations under this Agreement;

c. True and complete copies of the articles of incorporation or organization, bylaws, partnership agreement, shareholders or buy-sell agreements, voting trust agreements, employment agreements, management agreements, professional engagement agreements, and all other documents relating to the ownership, organization, voting, management or control of Franchisee have been delivered to Franchisor;

d. The documents and agreements contemplated by Section 5.1(c) provide that its activities must be restricted to those necessary solely for conduct of the Business in accordance with this Agreement;

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e. The documents and agreements contemplated by Section 5.1(c) require that the issuance and assignment of any direct or indirect legal or beneficial ownership interest in Franchisee is restricted by the terms of this Agreement; and all certificates representing direct or indirect legal or beneficial ownership interest in Franchisee now or hereafter issued bear a legend reciting or referring to such restrictions;

f. All amendments and modifications to the documents and agreements contemplated by Section 5.1(c) and new agreements of similar type will be delivered to Franchisor contemporaneously with their making;

g. Exhibits A and F hereto correctly identify each and every Owner, Operating Partner, director, officer, manager, accountant, attorney, and banker of Franchisee, and completely and accurately describe the nature and extent of each Owner's interest in Franchisee. Updated Exhibits A and F shall be furnished promptly to Franchisor, so that they (as so revised and signed by Franchisee) are at all times current, complete and accurate. Franchisee shall furnish to Franchisor from time to time upon request a full listing of all employees, former employees, and existing and former independent contractors of the Unit, designating therein the functions, addresses, telephone numbers and social security numbers of each;

h. Each Owner shall be a natural person acting in his individual capacity, unless otherwise approved by Franchisor. One Owner must own not less than fifty-one percent (51 %) of the equity and voting rights of Franchisee;

i. All documents, including all financial statements or other documents submitted to Franchisor by or on behalf of Franchisee are true, complete and correct and do not contain any material misstatement; and

j. Franchisee shall be the sole owner and operator of the Business, and shall not incorporate or create any subsidiary to own or operate the Business, or cede ownership, management or control of store Business or the Premises to any other party, or hold the lease for the Premises, or enter into any material contract related to the Business, without the prior written consent of the Franchisor.

Section 5.2. Operating Partner/Management of Business Franchisee shall designate Exhibit A as the "Operating Partner" a natural person approved by Franchisor who shall: (a) own and control, or have the right to own and control (subject to conditions reasonably acceptable to Franchisor) not less than twenty (20%) percent of the equity and voting rights of Franchisee, (b) have the authority to bind Franchisee regarding all operational decisions with respect to the Unit, and (c) have completed Franchisor's training program to Franchisor's satisfaction. The Operating Partner shall supervise the operation of the Unit, and any other units granted under the Area Development Agreement, on a full time basis. The Unit shall also be managed by an on-site Designated Manager who has completed Franchisor's training program to Franchisor's satisfaction.

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VI

OPERATING ASSISTANCE

Section 6.1. Pre-Opening Assistance. Prior to Franchisee's commencement of business, Franchisor shall provide Franchisee with:

- a. information with respect to preliminary plans and layouts for the Unit, and standards and specifications for all fixtures, signs, improvements, equipment, food and packaging and other related facilities for use in typical or similar Steak-Out units;
- b. such information as may be available to Franchisor concerning possible sources of signs, equipment, fixtures, furnishings, improvements and other products and services available in connection with the operation of Steak-Out units;
- c. training in accord with Section X hereof;
- d. such on-Premises pre-opening or opening assistance in the initial operation of the Business as Franchisor may, in its discretion, deem appropriate;
- e. on loan, one copy of the Confidential Operations Manual, (as herein defined) which may be amended from time to time by Franchisor in its sole discretion;
- f. a supply of master copies of accounting forms for reporting transactions to Franchisor; and
- g. if Franchisee so requests, assistance and advice in locating the Premises and negotiating the Premises Lease; provided that Franchisor's services with respect thereto shall be advisory only, and shall in no event constitute representations, warranties or covenants of Franchisor and shall be deemed to be rendered only on a best efforts basis. See Section 7.1(d) herein.

Section 6.2. Continuing Assistance. To the extent Franchisor, in its sole discretion deems reasonable, Franchisor shall continue its efforts to maintain standards of quality, appearance and service at all Steak-Out units, thereby maintaining the public image and reputation of the Steak-Out System and the demand for the products and services provided thereunder. To that end Franchisor may in its sole discretion, provide Franchisee with such of the following as it shall deem appropriate:

- a. periodic assistance in local advertising and marketing;

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b. periodic individual or group counseling in the operation of the Business rendered in person, by seminar, or by newsletters or bulletins made available from time to time throughout the System;

c. advice concerning operating problems, new techniques or operating methods disclosed by reports submitted to or inspections made by Franchisor;

d. advice with respect to new and improved methods of operation or business procedures developed by Franchisor, use of the Confidential Operations Manual, management materials, promotional materials, advertising formats and the Licensed Marks;

e. the opportunity to participate, on the same basis as other similar franchisees, in promotions and in group purchasing programs for inventory, supplies, insurance and equipment which Franchisor may, from time to time, use, develop, sponsor or provide and upon such terms and conditions as may be determined solely by Franchisor;

f. periodic inspections of the Unit and of the products and services it offers, which may or may not be announced and for which the Owner(s) need not be present; and

g. use of Steak-Out's computer information and communication systems (the "Steak-Out Information System" or "SOI System") in accord with the Information Systems Agreement that Franchisee shall execute in the form attached hereto as Exhibit G.

VII

FEES AND EXPENSE REIMBURSEMENTS

Section 7.1. Fees And Expenses. In consideration of the execution and continuance of this Agreement, Franchisee shall pay fees and reimburse expenses to Franchisor, or to such third parties performing services related thereto as it may specify, as follows:

a. **Initial Franchise Fee.** An initial nonrefundable Franchise Fee, which shall be deemed earned when paid, in the amount and on the schedule set forth in Exhibit D.

b. **Royalties.** A continuing royalty equal to a percentage of Royalty Sales in the amount and on the schedule set forth in Exhibit D.

c. **Promotion and Development Fee.** A continuing fee equal to a percentage of Royalty Sales in the current amount and on the current schedule set forth in Exhibit D, which may be revised from time to time by the Franchisor in its sole discretion upon ninety (90) days prior written notice, after consultation with such advisory groups as may be established pursuant to

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Section 12.1 hereof, to not more than six percent (6%), provided that in no event may such fee exceed three percent (3%) of Royalty Sales prior to the end of the first fiscal year following the execution of this Agreement, 4% of Royalty Sales prior to the end of the second fiscal year following the execution of this Agreement and 5% of Royalty Sales prior to the end of the third fiscal year following the execution of this Agreement. The proceeds of such fee shall be used for Promotion, as specified in Section 12.1 and for other purposes in direct and indirect support of franchisees and development of the Steak-Out System. If at any time such fee shall exceed two percent, such excess shall be expended in connection with system-wide advertising or media campaigns, area Promotion activities affecting local areas, advertising co-ops, product and service price reductions, or direct franchisee support activities, and related costs.

d. **Training Costs.** Such costs as are incurred by the Franchisor in training Franchisee's personnel as provided in Section X hereof.

e. **Communication and Information Systems Fees** Communication and Information Systems Fees in the current amounts and on the current schedule set forth in Exhibit D, as more particularly set forth in the Information Systems Agreement.

f. **Compliance Expenses.** Such reasonable and necessary costs as the Franchisor incurs, if any, in connection with any failure of the Franchisee to comply with this Agreement or any Area Development Agreement to which the parties hereto are subject, including costs of arbitration, litigation, attorneys, accountants and other assistants. Without limiting the foregoing, Franchisor may in particular charge a reasonable fee with respect to late submission or non submission by Franchisee of any financial statement or other report or evidence of insurance required by the Franchisor to be submitted by Franchisee from time to time.

g. **Relocation Fee.** A fee in the amount and on the schedule as then specified by Franchisor as contemplated by Section 3.3(h), and reimbursement of all Franchisor's out-of-pocket expenses with respect thereto. The Relocation Fee currently specified is set forth in Exhibit D.

h. **Transfer Fee.** Transfer Fee in the amount and on the schedule as then specified by Franchisor, and reimbursement of all Franchisor's out-of-pocket expenses with respect to any request for transfer of ownership of the Franchisee, as contemplated by Section XV. The Transfer Fee currently specified is set forth in Exhibit D.

i. **Renewal Fee.** Renewal Fee in the amount and on the schedule then specified by the Franchisor, as contemplated by Section 2.2(f), the current amount of which is set forth in Exhibit D;
and

j. **Miscellaneous.** Such other fees and expenses as the parties jointly agree to from time to time.

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Section 7.2. Method of Payment and Collection. All fees and expenses due to the Franchisor, after payment of the Initial Franchise Fee, shall be collected and paid by electronic funds transfer initiated by or at the direction of the Franchisor from the accounts of the Franchisee maintained in accord with Section 7.3 hereof, or at the Franchisor's election by any other means, with such frequency as the Franchisor shall elect. The electronic funds transfer and debit entries to Franchisee's bank account shall be made pursuant to authorization agreements for pre-authorized payments which Franchisee agrees to execute and deliver to Franchisor in the form attached hereto as Exhibit H or such other forms as Franchisor shall specify from time to time.

Section 7.3. Accounts. Franchisee shall maintain all bank accounts relating to the Business as specified by Franchisor and shall confirm Franchisor's right to draft monies from such accounts, electronically or otherwise, from time to time, in payment of fees and expenses set forth herein.

Section 7.4. Charge for Payment Default. If any fee or any other amount due under this Agreement is not paid when due, Franchisee shall pay a service charge equal to the lesser of the daily equivalent of eighteen (18%) percent per annum of such overdue amount per year or the highest rate then permitted by applicable law for each day such amount is past due. If Franchisor employs an attorney to consider or to collect any amount due from Franchisee under this Agreement, Franchisee shall pay all costs of collection, including fifteen percent (15%) of amounts due as attorney's fees, and interest thereon. At Franchisor's election, past due interest may be added to and become a part of principal due, and shall itself bear interest.

Section 7.5. Order of Payment Application. Franchisee's payments shall be applied in such order as Franchisor may designate from time to time. Franchisee may not designate an order for application of any fees different from that designated by Franchisor and Franchisor may accept fees paid pursuant to different instructions without any obligation to follow such instructions, even if such payment is made by its terms conditional on such instructions being followed. This provision may be waived only by written agreement signed by Franchisor.

Section 7.6 Holding for Franchisor's Benefit. Royalties and Promotion and Development Fees provided for herein shall become the property of the Franchisor at the instant that the sale or other individual transactions on which such sums are based occurs and prior to their collection by Franchisor such sums shall be held by the Franchisee in trust for the benefit of Franchisor. Both those and other amounts payable under this Section VII shall be timely due and payable by Franchisee without regard to any controversy or other matter, and shall not be subject to any claims, set off or holding by Franchisee for any reason.

VIII

LICENSED MARKS

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Section 8.1. Ownership of Marks and Associated Goodwill. Franchisor has the sole right to act as licensor of the Licensed Marks. All goodwill associated with the Steak-Out System and/or identified by the Licensed Marks shall inure directly and exclusively to the benefit of Franchisor. Franchisee shall not represent in any manner that it has acquired any ownership rights in the Licensed Marks or any marks, names or indicia which are or may be confusingly similar thereto, except as authorized in this Agreement. Upon the expiration or termination of this Agreement for any reason, no monetary amount shall be assigned by Franchisee as attributable to any goodwill associated with its use of the Licensed Marks. Franchisor may transfer the Licensed Marks and goodwill to another party in its discretion and without consent of or interference from Franchisee.

Section 8.2. Use of Marks. Franchisee understands and agrees that any use of the Licensed Marks, or any marks, images or other logos similar thereto, other than as expressly authorized by this Agreement, without Franchisor's prior written consent, is an infringement of Franchisor's rights therein and that the right to use the Licensed Marks granted herein does not extend beyond the termination or expiration of this Agreement. During the term of this Agreement and thereafter, Franchisee shall not, directly or indirectly, commit any act of infringement or contest or aid others in contesting the validity of Franchisor's right to use the Licensed Marks or take any other action in derogation thereof.

Section 8.3. Policing of Marks. Franchisee acknowledges an obligation to police the use of the Licensed Marks and agrees to do so. Franchisee shall promptly notify Franchisor of any claim, demand or cause of action that Franchisor may have based upon or arising from any unauthorized attempt by any person or legal entity to use the Licensed Marks, or colorable variation thereof, or any other mark, name or indicia in which Franchisor has or claims a proprietary interest. Franchisee shall assist Franchisor, upon request, in taking such action, if any, as Franchisor may deem appropriate to halt such activities, but shall take no action nor incur any expenses on Franchisor's behalf without Franchisor's prior written approval. If Franchisor undertakes the defense or prosecution of any litigation relating to the Licensed Marks, Franchisee shall execute any and all documents and do such acts and things as may, in the opinion of Franchisor's legal counsel, be reasonably necessary to carry out such defense or prosecution.

Section 8.4. Exclusive Operation Under The Marks. Franchisee shall operate and advertise only under the names or marks from time to time designated by Franchisor, shall adopt and use the Licensed Marks solely in the manner prescribed by Franchisor, shall refrain from using the Licensed Marks to perform any activity or to incur any obligation or indebtedness in such a manner as may, in any way, subject Franchisor to liability therefor, shall observe all laws with respect to the registration of trade names and assumed or fictitious names, and shall include in any application therefor a statement that Franchisee's use of the Licensed Marks is limited by the terms of this Agreement, and shall provide Franchisor with a copy of any such application and other registration document(s), shall observe such requirements with respect to trademark and service mark registrations and copyright notices as Franchisor may, from time to time, require, including, without limitation, affixing "SM," "TM," or "®" adjacent to all such Licensed Marks in any and all uses

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thereof, and shall utilize such other appropriate notice of ownership, registration and copyright as Franchisor may require.

Franchisee shall not adopt, use or register as its corporate name (by filing a certificate or articles of incorporation, organization or otherwise), any trade or business name, style or design which includes or is similar to the Licensed Marks or other identifying characteristics.

Section 8.5. Modification of Marks. Franchisor reserves the right, in its sole discretion, to designate one or more new, modified or replacement Licensed Marks for use by franchisees and to require the use by Franchisee of any such new, modified or replacement Licensed Marks in addition to or in lieu of any previously designated Licensed Marks. Any expenses or costs associated with the use by Franchisee of any such new, modified or replacement Licensed Marks shall be the sole responsibility of Franchisee. Franchisee shall have up to ninety (90) days from the date of notice from Franchisor to comply with this subsection.

Section 8.6. Cessation Of Mark Use In Event of Termination or Expiration. This Agreement shall be deemed to create a lien, perfectible at its option by Franchisor by exclusive signature upon lien perfecting documents, upon all exterior and interior sign facia, menus and other items bearing any Licensed Marks. Franchisees shall allow no other lien, claim or encumbrance to be created or exist upon such items. In the event of any termination or expiration of this Agreement, Franchisee shall immediately remove such facia bearing any of the Licensed Marks from the Premises and deliver such menus and other items to Franchisor. If Franchisee fails to make such alteration and delivery within fifteen (15) days after termination or expiration of this Agreement, Franchisor or its designated agents may enter upon the Premises at any time to make such alterations and take possession of such items, at Franchisee's sole risk and expense, without liability for trespass, and Franchisee shall bear the expense thereof.

IX

STANDARDS OF OPERATION

Section 9.1. Franchisee's Pre-Construction Obligations. Before commencing construction of the Unit, Franchisee shall, at its expense, prepare and furnish to Franchisor, for its approval, and shall obtain Franchisor's approval therefor before committing thereto, the following:

a. **Proposed Site.** A proposed site for the operation of the Unit which shall comply with such site criteria as Franchisor may prescribe from time to time;

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b. **Plans and Specifications.** All preliminary and final plans and specifications (including all changes and modifications). Two sets of final plans with respect to each proposed Unit must be provided to Franchisor. An identical set must be retained at the job site;

c. **Permits and Certifications.** All permits and certifications as may be required for the lawful operation of the Business, together with copies of all building inspection reports and certifications from all governmental authorities having jurisdiction over the Premises and the Business that all necessary permits have been obtained and that all requirements for construction and operation have been met;

d. **Proposed Lease Agreements.** A copy of the proposed Premises Lease, which shall provide Franchisor:

1. the right to enter the Premises to make any modification necessary to protect the Licensed Marks or to protect the rights listed herein, including under Sections 3.5 and 8.6;

2. "Collateral Assignment of Lease" in the form attached hereto as Exhibit I, or such other form as Franchisor may prescribe from time to time, executed by Franchisee and the lessor of the Premises, providing Franchisor notice of Franchisee's default of the Premises Lease, a right to cure such default and the right to assume the Premises Lease with the right to sublease or assign to a Steak-Out franchisee; or the right to act as lessee under the Premises Lease and to sub-lease or assign the Premises Lease to Franchisee or others; and

3. assurance that the Premises Lease shall be for a term which, with renewal options exercisable by Franchisee, is not less than the Initial Term.

4. Franchisor's standard items required in Premises Leases, including but not limited to terms relating to Approved Name Usage, the Terms of the Leases, Assignment of Lease, Defaults, Adequate Parking, Signage and Roof Penetrations.

e. **Insurance.** Evidence that Franchisee's contractor has insurance coverage reasonably satisfactory to Franchisor.

f. **General Contractor.** Proposed "General Contractor" must be approved by Franchisor.

Section 9.2. Timely Completion of Construction. Unless prohibited by adverse weather conditions, acts of God, force majeure or other events beyond the control of Franchisee, Franchisee shall complete or arrange for the completion of the construction of the Unit at the Premises in accordance with the approved site and building plans and, subject to Section 9.3 hereof, open the Business to the public not later than the earlier of: (i) the date on which Franchisee's Premises Lease requires Franchisee to commence its business; or (ii) one hundred twenty (120) days after the

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Effective Date hereof. Franchisee shall secure to Franchisor and its agents the right to inspect the construction at any reasonable time, shall correct, upon request and at Franchisee's expense, any deviation from the approved site layout and plan, and shall furnish to Franchisor a copy of the certificate of completion and obtain Franchisor's approval of the completed construction, at Franchisor's election, either prior to or within 21 days after opening, all or any part of the business for operation.

Section 9.3. Opening. The Business shall not be opened to the public prior to receipt of authorization to do so by Franchisor. Franchisee shall provide Franchisor with a copy of its certificate of occupancy and business license within ten (10) days after issuance.

Section 9.4. Fixtures and Equipment. All fixtures, equipment and supplies for the Business selected by Franchisee shall meet the quality standards set forth in the Confidential Operations Manual or otherwise by Franchisor in writing, subject to compliance with applicable laws and regulations.

Section 9.5. Signage. Franchisee shall acquire and utilize all signs as required by Franchisor for use at or in connection with the Business and shall acquire such signage in the manner and from the sources specified by Franchisor. Franchisor may vary such requirements from time to time depending upon applicable local zoning or regulatory requirements and other factors deemed by Franchisor to be in its best interest.

Section 9.6. Telephone Number and Related Items. The only telephone number(s) assigned to the Business or used in connection with the Unit shall be those approved in advance by Franchisor. Franchisee shall execute and deliver to Franchisor a form of assignment of telephone numbers and listings required by the applicable local or other telephone company(s) or such other form of assignment as Franchisor shall prescribe (the "Telephone Number Assignment") prior to the commencement of use of such number(s). See Exhibit J. Franchisee acknowledges and agrees that the telephone company and all listing services may accept this Agreement or the Telephone Number Assignment as conclusive evidence of Franchisor's exclusive right in such telephone numbers and listings and its authority to direct their transfer. Franchisee shall be solely responsible for all fees, charges and costs attributable to the Telephone Numbers until such time, if any, as Franchisor effectuates the Telephone Number Assignment pursuant to Franchisee's Post Term Obligations.

Franchisee shall immediately notify the telephone company providing service to the Franchisee and all telephone directory publishers of the termination or expiration of Franchisee's right to use any telephone number and any regular, classified or other telephone directory listings associated with any Mark, and to authorize transfer thereof to Franchisor at its direction. Franchisee acknowledges that, as between it and Franchisor, Franchisor has the sole rights to and interest in all telephone numbers and directory listings associated with any Mark. Franchisee authorizes Franchisor, and hereby appoints Franchisor and any of its officers as Franchisee's attorney in fact, to direct the telephone company providing service to the Franchisee and all telephone directory

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publishers to transfer any telephone numbers and directory listings to Franchisor at its direction, should Franchisee fail or refuse to do so. The telephone company providing such service and all telephone directory publishers may accept such direction or this Agreement as conclusive proof of Franchisor's exclusive rights in such telephone numbers and directory listings and Franchisor's authority to direct their transfer.

Franchisee shall not authorize or allow calls made to the above referenced telephone numbers to be transferred or redirected to any other number, or directory inquiries regarding numbers of the Business to be referred to any other Business.

Section 9.7. Compliance With Standards. Franchisee shall comply with all Steak-Out System rules, regulations and policies and maintain standards of quality, appearances and operations, make repairs, replacements and refurbishments for the Business as prescribed by Franchisor which are by their terms mandatory, including, without limitation, those contained in the Confidential Operations Manual, to insure that Franchisor's required degree of quality, service and image is uniformly maintained, and shall refrain from deviating therefrom and from otherwise operating in any manner which adversely reflects on Franchisor's name and goodwill, or on the Licensed Marks. Without limiting the generality of the foregoing, Franchisee specifically agrees:

a. to purchase and install, at Franchisee's expense, all such fixtures, furnishings, signs, equipment, and vehicles as Franchisor may prescribe from time to time; and to refrain from installing, or permitting to be installed, on or about or in connection with the Premises or the Business, any such item not meeting Franchisor's standards and specifications;

b. to maintain in sufficient supply, and use at all times, only operating products, materials, standard reporting forms, supplies and expendables, including paper and packaging goods, as conform with Franchisor's then current standards and specifications and to refrain from using non-conforming items without Franchisor's prior consent; and

c. to sell and offer for sale all such products, goods and services as Franchisor may from time to time require, and only those which Franchisor may, from time to time approve, which are not subsequently disapproved, as meeting its quality standards and specifications. In addition to any refurbishment required by other Sections hereof, in order to introduce new products or services through the Steak-Out System, Franchisee may be required to expend amounts on new, different or modified equipment or fixtures necessary to offer such new services or products. In such event, Franchisee shall have up to three (3) months to complete any modifications necessitated by the introduction of such new products and/or services.

Section 9.8. Operation Only By Franchisee. The Unit shall be operated only by the Franchisee. No part of the Premises shall be leased to or managed by any party other than Franchisee without Franchisor's prior written consent.

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Section 9.9. Principal Operator. At all times during the term of this Agreement there shall be at least one employee of Franchisee (the "Designated Manager") who:

- a. is principally responsible for the operation of the Business on a full-time, day-to-day in-person basis at the Unit;
- b. has attended and satisfactorily completed such training, retraining or refresher training programs as Franchisor may require, in its sole discretion, at such times and places as Franchisor may reasonably designate; and
- c. has executed a confidentiality agreement as specified in Section 9.25 hereof.

Section 9.10. Staffing. Franchisee shall hire all employees of the Unit and shall be exclusively responsible for the terms of their employment, including compensation, and for the proper training and supervision of employees in the operation of the Unit. Franchisor shall have the right, but not the obligation, to require the strict enforcement of this Agreement with respect thereto. Franchisee shall employ at least one Designated Manager, one cook, one driver and one other employee for each working shift, and such number of additional other personnel as is required for the proper conduct of the Business and is consistent with the policies set forth in the Confidential Operations Manual. Franchisee shall at all times staff the Business with such number of employees and operate the Business diligently so as to maximize the revenues and profits therefrom. Franchisor shall have no right or obligation to require any individual employee of Franchisee to take any specific action in contravention of any instruction of Franchisee, except in the case of urgencies constituting a breach of this Agreement, but may advise and support Franchisee employees from time to time in conjunction with Franchisor's activities.

Section 9.11. Operation Only By Approved And Trained Personnel. Franchisee shall assure that all persons employed or contracted by Franchisee are adequately supervised and are trained appropriately for their jobs and in conformity with the Franchisor's specifications, including that training specified in Section X hereof. At all times the Unit shall be operated directly by an Operating Partner or a Designated Manager and an assistant manager and next most important key employee who shall have completed the training described herein and shall have been approved by the Franchisor and not subsequently disapproved.

- a. **Approval Process.** Franchisee shall notify Franchisor in writing at least 30 days prior to employing any such person filling one of the positions described in this section, setting forth in reasonable detail all pertinent information relative to the individual's character and business background and experience. No such person shall be employed to operate the Business (or any part thereof) without Franchisor's prior consent, based upon such standards and requirements as Franchisor may from time to time specify, in writing or otherwise. If Franchisor rejects or later disapproves such personnel, it shall notify Franchisee of the pertinent reasons therefor. Franchisee agrees not to employ any person who is required to complete Franchisor's training program but who

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fails or refuses to do so. No such person shall be deemed an employee of Franchisor for any purpose whatsoever, regardless of their approval or non approval by Franchisor.

b. **Individual Failure To Comply.** If any trainee fails to complete the required training program satisfactorily, Franchisor may notify Franchisee of such failure and require Franchisee to designate a substitute trainee. If Franchisee fails to designate a substitute trainee that completes the training to Franchisor's satisfaction, Franchisor may, at its sole option, require Franchisee to pay Franchisor for additional training or training for up to one additional substitute trainee, provided that if trainee and the substitute trainee, if any, fails to complete the training to Franchisor's satisfaction, Franchisor may, at its sole option, elect to terminate this Agreement. Franchisor may, at its option, require other of Franchisee's initial and subsequent management employees to attend and satisfactorily complete all or any part of such training programs.

Section 9.12. Product Compliance Testing. Franchisee shall permit Franchisor or its agents, at any reasonable time, to remove from the Premises, at Franchisor's option, samples of any products, materials, supplies and expendables without payment therefor, in amounts reasonably necessary for testing by Franchisor or an independent laboratory, to determine whether such samples meet Franchisor's then current standards and specifications, including, without limitation, maximum fat content of meat, with no liability of Franchisor for any damage to such samples as a result of such testing.

Section 9.13. Approved Suppliers. Franchisee shall purchase all food products, packaging, ingredients, spices, sauces, seasonings, mixes, marinades, beverages, fixtures, furnishings, signs, equipment (including delivery vehicles), systems, inventory, uniforms, advertising materials, paper and plastic products and other supplies, products and materials, and the distribution thereof, required for the operation of the Business solely from suppliers who demonstrate, to the continuing reasonable satisfaction of Franchisor, the ability to meet Franchisor's reasonable standards and specifications for such items, who possess adequate quality controls and capacity to supply Franchisee's needs promptly and reliably, and who have been approved for such items in writing by Franchisor and not thereafter disapproved. Franchisor reserves the right to designate itself or an affiliate an approved supplier or sole supplier and to make a profit from sales to Franchisee as well as to enter into joint ventures, joint projects and co-developments with suppliers, vendors, or others and to receive such payments and contributions from vendors as it shall decide. Franchisor may approve or require a single distributor or supplier for any products, materials or supplies. If Franchisee desires to purchase any items from an unapproved supplier, Franchisee shall submit to Franchisor a written request for such approval in accordance with procedures prescribed from time to time by Franchisor. If Franchisor has not specifically approved such request within thirty (30) days of receipt of such request, it shall be deemed to be disapproved. At its discretion, Franchisor may charge reasonable fees based on its direct and indirect costs for testing, assessing and approving suppliers requested by Franchisee. Franchisee grants Franchisor, in its own discretion, from time to time the right to receive from such suppliers records of Franchisee's purchases and payments and

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credit history and of any complaints and comments of the supplier related thereto. Franchisor makes no representation to Franchisee as to the suppliers or their products.

Without limiting the foregoing, Franchisee shall purchase beef, poultry and other items as to which Franchisor has established a system-wide program, including a pre-cut program, only from such purveyors as Franchisor stipulates from time to time. All items purchased from or through Franchisor's designated purveyors shall be used only in conjunction with the operation of the Unit, and may not be diverted to any other purpose or operation.

Section 9.14. Times Open For Business. Unless otherwise specifically approved by Franchisor, the Business shall be open for the conduct of business at such times and for the minimum number of hours specified in the Confidential Operations Manual or, if different, for such hours as may be required by the terms of the Premises Lease, and Franchisee shall at all times staff the Business with such number of employees and operate the Business diligently so as to maximize the revenues and profits therefrom.

Section 9.15. Marketing Materials. Franchisee shall use only business stationery, business cards, marketing materials, advertising materials, printed materials or forms which have been approved in advance by, and not subsequently disapproved by, Franchisor. Franchisee shall fully utilize all such materials as required by Franchisor from time to time. Supplies or materials purchased, leased or licensed by Franchisee shall meet those standards specified in the Confidential Operations Manual. Franchisee shall not employ any person to act as a representative of Franchisee in connection with local promotion of the Business in any public media without the prior written approval of Franchisor. Franchisor shall be the sole and exclusive owner of all materials, rights and concepts that result from advertising or marketing or use of the marks; Franchisee shall have no rights therein regardless of whether Franchisee makes any monetary or other contribution thereto. In no event shall Franchisee use any Internet, electronic catalog or similar publication or distribution means to offer coupons or for any other purpose, without Franchisor's written approval granted or withheld in its sole discretion.

Section 9.16. Public Notification. In all advertising displays and materials and at the Premises, Franchisee shall, in such form and manner as may be specified in the Confidential Operations Manual, notify the public that Franchisee independently owns and operates the Business, and that Franchisee is operating the business licensed hereunder as a franchisee of Franchisor, as an independent contractor, and not as an agent, representative or employee of Franchisor, and shall identify its business location in the manner specified in the Confidential Operations Manual. Franchisee shall otherwise take such action as may be necessary to hold itself out to the public as an independent contractor. Further, at the request of Franchisor, the Franchisee shall display, or otherwise make available through flyers in conjunction with delivery of food, literature provided by Franchisor relating to the availability of Steak-Out franchises as supplied by the Franchisor and at such location(s) as directed by the Franchisor from time to time.

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Section 9.17. Customer Inquiries. Franchisee shall promptly respond to customer inquiries and complaints and shall take such steps as may be required to insure positive customer relations.

Section 9.18. Information Systems Franchisee shall install, update and maintain, pay for, and use exclusively for all operations in the Business those information and management systems specified from time to time by Franchisor, and shall choose items from those alternative systems approved and authorized by Franchisor. All business and accounting operations, and all data resulting therefrom, including but not limited to those required to comply with Section XIII hereof, shall be kept exclusively on those systems in readily retrievable form accessible by Franchisor. Such systems include, but are not limited to point of sale, production management, accounting, marketing, telephone, high speed data grade Internet Systems capable of operating at speeds equal to DSL or faster, and other network and software facilities attendant thereto for communications with customers, and between Franchisee, Owners and Franchisor. All orders, customer data, and financial data from the Business shall be entered and recorded and maintained on such systems, as further stipulated under "Maintenance" under Section 13.1 below. Franchisee shall not manually enter, take, maintain, or record orders, other receipts or sales data, costs or other financial data other than on such systems except as otherwise permitted or directed by the Franchisor. In addition thereto, as well as in furtherance thereof, Franchisee and Owners shall execute and deliver an Information Systems Agreement in the form attached hereto as Exhibit G.

Section 9.19. Operation In Event Of Franchisee Disability or Abandonment.

a. Franchisee hereby grants to Franchisor the right, but Franchisor has no obligation to exercise that right, to take such steps as are necessary to manage the Business for the account of Franchisor and Franchisee, and to charge the cost thereof to the Unit and to receive a reasonable fee for such services, in the event of Franchisee's substantial inability or, in the case of the Operating Partner, death or incapacity or incapability of running the Business, provided, however that in the case of death, incapacity or incapability of the Operating Partner, Franchisee's Majority Owner may himself manage and operate the Business on a substantially full-time basis for a period of not more than six months while seeking in good faith a newly certified Operating Partner and further provided that Franchisee is and remains in compliance with all obligations to Franchisor, including all operational standards required of Franchisee.

b. Franchisee hereby grants to Franchisor the right, but Franchisor has no obligation to exercise that right, to take such steps as are necessary to manage the Business for the sole account of Franchisor, and to charge the cost thereof to the Unit and to receive a reasonable fee from the Franchisee for such services, in the event of (i) Franchisee's abandonment, or (ii) substantial abandonment of the operations of the Unit for a period of at least 12 hours, or (iii) Franchisee's giving clear indication of its intent to abandon the operation of the Unit. In such event, with or without a Notice of Default, Franchisor or its agents may enter the Premises, operate the Unit, operate all equipment therein, and retain some or all employees employed at the Unit, all as Franchisor in its sole discretion deems acceptable to its business needs. Franchisor may operate the

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Unit for such time as it deems acceptable, and it shall not be obligated to report to, or account to, Franchisee or Owners or others, for any profits, receipts, costs, expenses or other results of Franchisor's operation of the Unit. All parties disclaim that Franchisor may owe any fiduciary duty to Franchisee or any Owner for such operation of the Unit. Franchisee and Owners shall remain liable to Franchisor for all obligations hereunder, and Franchisee shall remain liable to all third-parties for all liabilities to such third-parties, and Franchisee shall not communicate in any way to any third party that Franchisor shall be responsible for any pre-abandonment obligation that may be due any third-party.

Section 9.20. Pricing. Franchisor may from time to time offer guidance to Franchisee with respect to prices for the products and services offered by the Business which in Franchisor's judgment constitute good business practices. Franchisee shall have the sole right to determine prices charged from time to time at the Unit, including the prices charged in connection with any promotions programs. No such guidance with respect to prices shall be deemed or construed to impose upon Franchisee any obligation to charge any fixed, minimum, or maximum price for any product or service offered for sale by Franchisee.

Section 9.21. Notification of Development. If Franchisee develops any new concept, process, or improvement in the operation or promotion of the Unit, Franchisee shall promptly notify Franchisor and provide Franchisor with all necessary information with respect thereto without separate compensation to Franchisee. Franchisee acknowledges that any such concept, process, or improvement shall become the property of Franchisor and Franchisor may utilize or disclose such information to other franchisees.

Section 9.22. Market, Product And System Research. Franchisor may conduct market research and tests to determine consumer trends and salability of new food products and services. Franchisee shall cooperate by participating in Franchisor's market research programs, test marketing new food products, equipment and services in the Unit and providing Franchisor with timely reports and other relevant information regarding such market research. In connection with any such test marketing, Franchisee shall purchase a reasonable quantity of, and make a reasonable effort to sell, such test products.

Section 9.23. Product Promotions. Franchisee shall participate in sales and promotion of special seasonal or special products and services as prescribed by Franchisor.

Section 9.24. Delivery And Service. Franchisee acknowledges responsibility for making sure Franchisee's drivers are properly licensed, and that they use well-maintained, safe and attractive vehicles and conduct themselves in a safe, sanitary, efficient and well groomed manner. Franchisee shall not offer delivery service to any customer whose order cannot be delivered within a reasonable amount of time to insure product and service quality as of the time when such order is placed, taking into consideration the least favorable prevailing driving conditions and strict compliance with all

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laws, regulations and rules of the road, and due care and caution in the operation of the delivery vehicles.

Section 9.25. Confidentiality. Franchisee, each of Franchisee's Owners and the Operating Partner shall execute a Confidentiality Agreement in the form attached hereto as Exhibit K. In addition, Franchisee shall make sure that its Designated Manager, and all of Franchisee's managers or supervisory employees are bound by a confidentiality agreement of similar content that is enforceable in the state in which the Unit operates.

Section 9.26. Internet Presence. Franchisee shall not establish a web site on the Internet using any domain name containing the words "Steak-Out" or "SteakOut" or "Steak-Out.com" or "SteakOut.com" or "Steak-Out.net" or "SteakOut.net" or any variation thereof. Franchisor retains the sole right to advertise on the Internet and create a web site using any of the foregoing or related domain names. Franchisee acknowledges that Franchisor is the owner of all right, title and interest in and to such domain names as Franchisor shall designate. Franchisor retains the right to pre-approve Franchisee's use of linking and framing between Franchisee's web pages and all other web sites. Franchisee shall, within five (5) days, dismantle any frames and links between Franchisee's web pages and any other web sites, if and as requested by Franchisor.

X

TRAINING

Section 10.1. Training Requirements. Franchisee shall establish for the Unit a training program for all employees meeting the standards prescribed by Franchisor. Without limiting the foregoing, Franchisee shall undertake Opening Training, Periodic Training, and Continual Training as follows:

a. **Opening Training.** Unless previously trained to the satisfaction of Franchisor, the senior officer or general partner of the Franchisee, the Operating Partner, the Designated Manager and one other employee of such position as Franchisor shall designate shall to the satisfaction of the Franchisor complete Opening Training at such times and places prior to and immediately after initial opening of the Unit and according to such programs as the Franchisor shall from time to time specify. Replacement personnel shall undertake Opening Training prior to their commencing full-time work for the Franchisee.

b. **Periodic Training.** Franchisee's employees and contractors shall to the satisfaction of the Franchisor complete Periodic Training at such times and places and according to such programs as the Franchisor shall from time to time specify. Franchisor shall not require any Franchisee employee or contractor to complete Periodic Training at a Franchisor central training facility more often than semi-annually.

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c. **Continual Training.** In addition to the foregoing, it shall be the responsibility of the Franchisee to continually train all its employees and contractors in all relevant aspects of the Business, including training as to health and safety standards, operating procedures, compliance, customer awareness, advertising and public relations, business skills and personal development.

Section 10.2. Training Costs and Expenses. All expenses and costs incurred in training, including, without limitation, cost of travel, room, board and wages of the person(s) receiving such training, and as may be specified by Franchisor from time to time of persons performing such training, and workers' compensation on such persons shall be borne by Franchisee, including such fees as Franchisor shall from time to time specify with respect to such training.

Section 10.3. Presumption of Sufficient Training. Unless the Franchisee informs Franchisor in writing at the end of its Opening Training that the Designated Manager or Designated Managers do not feel completely trained in the operation of the Unit, or such manager or managers pass Franchisor's standard test for determining proficiency and knowledge of the operation of the Unit to Franchisor's satisfaction, Franchisor, in its sole discretion, may deem such manager to have been sufficiently trained in the operation of the Unit.

Section 10.4. Franchisee Self Improvement. Franchisee, through its Owners, directors, officers and appropriate employees shall pursue continual education, enhancement and improvement of their general business skills and their skills specifically applicable to the Business. Without limiting the foregoing, such persons shall attend such courses and seminars and read such books and periodicals as shall reasonably fulfill that obligation. Without limiting the foregoing, Franchisee shall encourage all of its employees, including its drivers, to develop their talents and improve their skills, and shall lend reasonable support to their self improvement objectives.

XI

CONFIDENTIAL OPERATIONS MANUAL

Section 11.1. The Manual. In order to protect the reputation and goodwill of the businesses operating in the Steak-Out System and to maintain standards of operation under the Licensed Marks, Franchisee shall conduct the Business in accordance with various written instructions and confidential manuals containing Franchisor's mandatory and suggested standards, specifications and operating procedures relating to the development and operation of Steak-Out units and other information relating to obligations under this Agreement (hereinafter and previously referred to as the "Confidential Operations Manual"), including such amendments thereto, as Franchisor may publish from time to time, all of which Franchisee acknowledges belong solely to Franchisor and to be on loan from Franchisor during the term of this Agreement. When any provision in this Agreement requires that Franchisee comply with any standard, specification or requirement of Franchisor, unless otherwise indicated, such standard, specification or requirement shall be such as

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is set forth in this Agreement or as may, from time to time, be set forth by Franchisor in the Confidential Operations Manual. When used in this Agreement, Confidential Operations Manual includes alternative or supplemental tangible means of communicating such information to Franchisee, including without limitation, bulletins, videotapes, audio tapes, computer diskettes and electronic media.

Section 11.2. Revisions. Franchisor may, from time to time, revise the contents of the Confidential Operations Manual to implement new or different requirements for the operation of the Business, some of which may require the expenditure of reasonable sums of money by Franchisee. Franchisee shall comply with all such revisions that are by their terms mandatory.

Section 11.3. Currency. Franchisee shall assure that its copy of the Confidential Operations Manual is kept current and up to date. In the event of any disagreement as to its proper contents, the terms and dates of the master copy thereof maintained by Franchisor shall be controlling.

Section 11.4. Enforcement. Franchisee acknowledges that the unauthorized use or disclosure of Franchisor's confidential information or trade secrets will cause irreparable injury to Franchisor and that damages are not an adequate remedy.

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PROMOTION

Section 12.1. Promotion.

(a) In protection, enhancement and expansion of the Licensed Marks, and the image and business of Franchisor, franchisees and the Steak-Out system as a whole, Franchisor may conduct activities nationally, internationally, regionally and locally, in advertising, public relations, marketing, market research, customer analysis and testing, product and system research and development, competitive intrusion defense, promotion consulting, product and service price reductions programs, advice, training and support in general support thereof and specific business support, including individual and group meetings and training, to existing and prospective franchisees individually or collectively ("Promotion"). Franchisor or its designees shall direct all such activities with sole discretion over the extent, methods, concepts, materials, media, and schedules used therein. Franchisee understands and acknowledges that such efforts are intended to maximize general public recognition and acceptance of, and for the benefit of, the Steak-Out system as a whole and that there is no obligation to assure that any particular franchisee benefits directly or pro rata or to any certain degree from Promotion. Franchisee shall participate upon Franchisor's

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request in consultations with Franchisor with regard to Promotion, and shall serve on such advisory councils, boards and committees with respect thereto as Franchisor shall reasonably request.

(b) Expenses of Promotion, including reasonable salaries, administrative costs and overhead reasonably related to the purposes for which proceeds of the Promotion and Development Fee are spent, shall be paid from that fee, except as otherwise agreed from time to time. Such proceeds may also be used, in Franchisor's discretion, to pay third party providers for services and/or products reasonably related to Promotion. Such expenses and proceeds may be further detailed and modified from time to time in the Confidential Operations Manual. Franchisor may in its discretion from time to time expend funds in excess of the proceeds of that fee for the purposes set forth, in which case Franchisor may recoup and be reimbursed for such excess, with reasonable interest thereon, out of future proceeds of that fee at such times as it shall decide. Such fee shall not be used to defray general operating expenses of Franchisor that are unrelated to such purposes.

Section 12.2. Local Advertising by Franchisee. At its expense and exclusive of any sums paid to the Franchisor, and in addition to Franchisor's efforts, Franchisee shall conduct on an annual basis continuing local advertising in form, content and media approved by Franchisor, in an amount equal to not less than one (1%) percent of Franchisee's Royalty Sales during the previous fiscal year ("Local Advertising"). The value of any promotions and deductions (e.g. coupons, buy-one, get-one-free) or other promotional allowances shall not be entitled to be included in amounts Franchisee is required to expend under this subsection on Local Advertising. Upon request, Franchisee shall submit evidence of any such expenditures to Franchisor in the manner and form set forth in the Confidential Operations Manual or otherwise in writing. In the event that Franchisee shall fail to expend such sums on Local Advertising, Franchisor may, immediately upon notice provided to Franchisee, assess Franchisee for such deficiency. Franchisee shall also market and advertise for and promote the Unit, to the maximum reasonable extent, consistent with good and professional business practices, and local advertising expenditures herein specified shall be only one component thereof.

Section 12.3. Grand Opening Advertising. In addition to the Local Advertising requirements of subsection 12.2 above, Franchisee shall expend additional sums equal to not less than the amount set forth in Exhibit L as Grand Opening Advertising during the period commencing 30 days prior to and ending ninety days (90) following the opening of the Unit ("Grand Opening Advertising"). Franchisee shall pay the Grand Opening Advertising amount to Franchisor prior to and as a precondition of opening the Unit. Franchisor shall disburse or reimburse such amounts for Franchisee's account as reasonably directed by Franchisee according to a grand opening plan submitted to Franchisor for approval at least sixty (60) days prior to the opening date of the Unit. If Franchisee does not submit a grand opening plan and obtain Franchisor's consent as provided herein, Franchisor may prepare the grand opening plan for the Franchisee. If there is a disagreement between Franchisor and Franchisee with respect to the plan and such disagreement is not resolved within ten (10) days after delivery of the plan to Franchisee, the plan as originally prepared by Franchisor shall be implemented and the referenced funds shall be expended pursuant thereto. Any

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Grand Opening Advertising money not so expended by Franchisee shall be used for Promotion purposes without any allocation or credit for such amounts being given to Franchisee.

Section 12.4. Local Advertising and Marketing Materials. Franchisor may provide Franchisee, from time to time, with local advertising and marketing materials, including, without limitation, newspaper layouts, radio commercial tapes, merchandising materials, sales aids, special promotions and similar advertising at a reasonable price, plus handling.

Section 12.5. Additional Advertising and Promotional Requirements Franchisee, at its expense and in addition to the foregoing provisions of this Section XII and Section IX, shall:

a. obtain listings of the Business in the white and yellow pages of all local telephone directories of the kind and size specified from time to time by Franchisor for all comparable Steak-Out units;

b. obtain and maintain any special promotional materials of the kind and size as Franchisor may from time to time require for comparable Steak-Out units;

c. submit (through the mail, return receipt requested or other means stipulated by Franchisor) to Franchisor for its prior approval (except with respect to prices to be charged), samples of all advertising and Internet website information to be used by Franchisee that have not been prepared or previously approved by Franchisor or its designated agents;

d. participate in all cooperative advertising, marketing and/or product service programs as are from time to time prescribed by Franchisor, provided, however, that no such cooperative advertising and/or marketing programs shall require Franchisee to adhere to any specific retail price(s) for its products. The terms and conditions required for participation shall be as specified in the Confidential Operations Manual; and

e. assure that all advertising and promotion by Franchisee shall be completely factual and shall conform to the highest reasonable standards of ethical advertising and good taste. In all dealings with Franchisor, as well as customers, suppliers and the public, Franchisee shall adhere to the highest standards of honesty, integrity, fair dealing and ethical conduct. Franchisee agrees to refrain from any business or advertising practice which may be injurious to the business of Franchisor, other Steak-Out units or the goodwill associated with the Licensed Marks.

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STATEMENTS AND RECORDS

Section 13.1. Maintenance. Franchisee shall contemporaneously prepare and shall maintain for a period of not less than ten (10) years complete and accurate records of all aspects of the Business and shall furnish copies thereof to the Franchisor upon request. Franchisor and its designated agents shall have the right to examine and audit such records at all reasonable times to insure that Franchisee is complying with the terms of this Agreement and for general use. Included, among other things, in such records shall be all contracts, licenses, supplier and other invoices, customer data, product and sales information, full and complete register tapes, sales tickets, and other indicia of sales, checkbooks, bank statements, tax returns and financial data and such additional statistical and other data relating to the Business as Franchisor shall specify from time to time. Each financial statement and report required by this Section XIII shall be in such form, and shall contain such detail, as Franchisor shall specify from time to time. Franchisee shall inform its accountants that such financial and accounting statements and materials as are prepared pursuant to this Section XIII are intended for use by Franchisor and by such others as Franchisee shall select.

Section 13.2. Reporting of Royalty Sales. Franchisee shall report Royalty Sales by such means and with such frequency as Franchisor shall specify. If Franchisee fails to report Royalty Sales on a timely basis, Franchisor may estimate such sales for purposes of computing and collecting fees hereunder.

Section 13.3. Operations Reporting. No later than the tenth (10th) day after the end of the preceding Accounting Period, Franchisor shall have received from Franchisee, on forms prescribed by Franchisor, statements stating the fees due to Franchisor during the preceding Accounting Period itemized by revenue producing activity as specified from time to time by Franchisor, the Royalty Sales at the Unit for such period as Franchisor shall request, and such other information as Franchisor may require, all signed and certified as true and correct by an authorized agent of Franchisee.

Section 13.4. Period Financial Statements. Franchisee shall prepare and deliver to Franchisor, on an Accounting Period and on a cumulative basis and on a comparative prior years basis, postmarked no later than the twentieth (20th) day after the end of the preceding Accounting Period, an unaudited final profit and loss statement and balance sheet in a form satisfactory to Franchisor acting in its sole discretion covering Franchisee's business for the prior Accounting Period and such additional reports as Franchisor may require, all of which shall be certified by Franchisee as true and correct. In addition, Franchisee, as well as any guarantor(s) of this Agreement, shall, within sixty (60) days after request from Franchisor, deliver to Franchisor a financial statement, certified as correct and current, in a form which is satisfactory to Franchisor and which fairly represents the total assets and liabilities of any such guarantor(s).

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Section 13.5. Annual Financial Statements In addition to the foregoing statements, within ninety (90) days after the close of each fiscal year of Franchisee, Franchisee shall furnish to Franchisor, at Franchisee's expense, a statement of income, expense and retained earnings of Franchisee for such fiscal year and a balance sheet of Franchisee as of the end of such fiscal year, in each case also including comparable information for the immediately preceding year, and customary other statements, schedules and notes as are required by and all prepared in accordance with generally accepted accounting principles and, if so specified by Franchisor, audited and certified to by an independent certified public accountant reasonably satisfactory to Franchisor.

Section 13.6. Third Party Submissions. Upon Franchisor's request, Franchisee shall furnish Franchisor with a copy of any and all records or projections furnished by it to any third party, all of which Franchisee shall certify as true and correct.

Section 13.7. Deficiencies. If any inspection discloses that the Royalty Sales during any Accounting Period exceeded the amount reported by Franchisee as its Royalty Sales, or that Franchisee has otherwise violated this Agreement, Franchisee shall bear the cost of such inspection and such other remedies as are provided for herein, and shall pay any deficiency with interest from the date due at the lesser of eighteen (18%) percent per annum of such overdue amount or the highest rate permitted by applicable law, immediately upon the request of Franchisor.

Section 13.8. Credit Reports. Franchisee and each Owner grant to Franchisor the right to obtain from time to time, at Franchisor's cost, credit reports from any third party credit reporting service Franchisor may choose regarding the past and current credit history of the Franchisee and each Owner.

XIV

FRANCHISEE GOODWILL MAINTENANCE COVENANTS

Section 14.1. Dedication To Business. During the term of this Agreement, Franchisee and the Owners shall devote their sole and exclusive business time, best efforts and resources to the Business and the Franchisee and its Owners shall refrain from conducting any other business, including any Competitive Business, either as an owner, manager or employee, consultant, or lender or from guaranteeing any obligation of any Competitive Business, except as approved by Franchisor in writing after notice given by Franchisee prior to commencing such other business. The Owners shall promptly inform Franchisor in writing of the existence and location of any Competitive Business developed by any member of an Owner's Immediate Family.

Section 14.2. Support Of Network. Franchisee and Owners shall use their best efforts to promote, encourage and recommend the use of Steak-Out to customers, to potential franchisees and

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to the public at large. The Unit and its personnel shall be made available to Franchisor or its designees at all times for visitation, showing, introductions, development of Promotion and product, equipment and system research and development, as well as for inspections and audits of operations and compliance with this Agreement. Franchisee and its Owners shall inform Franchisor in writing of the existence and location of any Competitive Business that Franchisee and its Owners observe anywhere in the United States of America.

Section 14.3. Attrition Avoidance. Franchisee and Owners shall not employ or seek to employ any person who is at that time, or within one prior year has been, employed by Franchisor or any other Steak-Out franchisee or otherwise, directly or indirectly, induce such person to leave his or her employment thereat. If otherwise in compliance with this Agreement, Franchisee may relieve itself of the foregoing covenant as to any single employee upon payment to Franchisor or, at Franchisor's discretion, to such other franchisee of an amount equal to the annualized compensation of such employee. In addition, Franchisee shall not hire as an employee or retain as an independent contractor any person who was terminated for cause by Franchisor or any other Steak-Out franchisee. For purposes of this paragraph, the term "cause" shall be determined in the sole discretion of Franchisor, based on information actually known to Franchisor, which shall be under no duty to undertake independent investigation of such person or cause.

Section 14.4. Covenant Not To Compete. Franchisee, Franchisee's Owners and all members of their Immediate Families, for themselves and their Affiliates, covenant, during the term of this Agreement and for a period of three (3) years after termination or expiration of this Agreement, not to engage directly or indirectly as an owner, operator, or in any managerial capacity, in any Competitive Business, wherever located if during the term of this Agreement, or if after the that term, within a twenty-five (25) mile radius of the Premises or within a twenty-five (25) mile radius of any Steak-Out unit then in existence or under construction. This covenant shall be deemed separate from, and shall survive the term of, this Unit Franchise Agreement. Franchisee, its Owners and its affiliates mentioned above acknowledge that their initial access to the System, as well as access occurring thereafter constitute transmission of confidential information and trade secrets by Steak-Out to the franchisee and are sufficient consideration and foundation for this covenant, and that this covenant shall not at any time be deemed executory on the part of Franchisor or Franchisee, and that this covenant shall not be rejectable by Franchisee or its affiliates in any bankruptcy proceeding.

The parties acknowledge the unpredictability of certain decisions of courts of law and the variance to standards in differing jurisdictions. Accordingly, to the extent required by final decision of a court of competent jurisdiction, after exhausting all appeals, the scope and duration of this covenant not to compete shall be deemed to be reduced to conform to the permissible scope and duration of applicable law.

Section 14.5. Common Effort. Franchisee and its senior employees shall devote up to fourteen (14) days each year, at the direction of Franchisor, to visitation, assessment, and assistance to other

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franchisees, and/or Franchisor or the Steak Out system as a whole, pursuant to program(s) specified by Franchisor for such purpose. Expenses thereof shall be borne by Franchisee, except for such partial reimbursement as Franchisor shall determine from time to time. In addition, Franchisee and/or its employees specified by Franchisor shall attend such meetings and seminars as are sponsored by Franchisor from time to time, including general annual, semi-annual and periodic Steak-Out meetings, and shall participate therein in good faith, including participation as a speaker or presenter, and shall bear Franchisee's direct costs and indirect proportional costs of such meetings.

Section 14.6 Absence of Interference. Franchisee shall be protected from disruption of or interference with its contractual and business relations with Franchisor and/or its affiliates by any other franchisee. Likewise, Franchisee and its Owners shall not disrupt or interfere, directly or indirectly, alone or in concert with others, with any contractual or business relations between Franchisor and any franchisee or potential franchisee. Neither Franchisee nor its Owners shall enter into any agreement with any other franchisee or its Owners without the express consent of Franchisor, acting in its sole discretion.

Section 14.7. Independence. The parties agree that each of the foregoing covenants shall be construed as independent of any other covenant or provision of this Agreement.

Section 14.8 Full Exploitation of the Market. Franchisee shall take all steps reasonable and necessary to assure that Royalty Sales of the Unit achieve the highest practical level and show steady increases commensurate with good performance and economic and population growth within the Permitted Area, and that all potential customers within the Delivery Area are individually solicited for sales and well served on a continuing basis.

Section 14.9 Cessation Upon termination or expiration of this Agreement, Franchisee shall have no right to continue to use the Marks or to operate a substantially similar business upon the Premises. If Franchisee or any of its Owners, without the express written permission of the Franchisor, continues to operate the Unit selling products that are substantially similar to those sold by Steak-Out, after the termination or expiration of this Agreement, with or without using the Marks, Franchisee and its Owners shall be deemed to continue to be bound by all of their covenants and guarantees set forth in this Agreement, including those set forth in Section 14.10 relating to "Holding Over." Franchisor may take such legal action as it deems appropriate to enforce the terms of this Agreement, including filing suit to enjoin Franchisee or its Owners from using the Marks or operating the Unit in a manner substantially similar to its operation as a Steak-Out Franchisee.

Section 14.10 Holding Over In the event that, for any reason, Franchisee shall continue to operate the Unit using Franchisor's Marks after termination, expiration or otherwise, or otherwise fails to timely adhere to Post-termination obligations specified herein, then (a) Franchisee and Owners shall be deemed to have entered into, and to be bound by, the obligations of a Franchisee under Franchisor's then-published current form of Franchise Agreement, for such term not to exceed ten years, as Franchisor shall specify, and (b) Franchisee and Owners shall be obligated to pay a

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surcharge equal to five percent of the Franchise's immediately preceding year's annual Royalty Sales, and to pay an additional Surcharge Royalty equal to the percent of Royalty Sales, calculated and paid in the same manner as those Royalties provided for in the then-current Franchise Agreement form. Such Surcharge Royalties shall cease at such time as Franchisee and Owners formally execute in writing the then-current Franchise Agreement and all agreements attendant thereto, according to procedures specified by Franchisor and set forth herein and therein.

XV

TRANSFER AND ASSIGNMENT

Section 15.1. Franchisor Transfer. This Agreement and all Franchisor's rights and duties hereunder may be freely assigned or transferred by Franchisor to any person or legal entity and shall be binding upon and inure to the benefit of Franchisor's successors and assigns.

Section 15.2. Franchisee Qualifications. Franchisor has entered into this Agreement and granted this franchise in reliance upon the character, skill, aptitude and business and financial capacity of the Franchisee, the Owners, and the personnel to be employed in the Unit, as well as upon various other tangible and intangible factors. Franchisee understands and acknowledges that the rights and duties created by this Agreement are personal to Franchisee, and its Owners and this Agreement and the franchise awarded hereunder may not be transferred. Subject to the provisions of this Agreement, Franchisee may seek sale of the Unit and the Business, and award of a new franchise to a proposed purchaser. Accordingly, neither Franchisee nor its Owners shall, without Franchisor's prior written consent, directly or indirectly sell, assign, transfer, convey, give away, pledge, mortgage or otherwise encumber any interest in this Agreement or any portion or aspect thereof, the Business, the Premises, the Unit or any equity or voting interest in Franchisee. The consent of Franchisor shall remain a subjective determination and shall be exercisable in its sole discretion. Any such purported assignment occurring by operation of law or otherwise, including any assignment by a trustee in bankruptcy, without Franchisor's prior written consent shall be a material default of this Agreement.

Section 15.3. Transfer Conditions. Franchisee understands and acknowledges the vital importance of the performance of Franchisee to the market position and overall image of Franchisor. Franchisee also recognizes the many subjective factors that comprise the process by which Franchisor selects a suitable franchisee. Subject to Franchisor's right of first refusal under Section 15.6 and to Franchisor's discretion, the following Transfer Conditions must be satisfied:

- a. the proposed transferee or its owners have met the Franchisor's standards of qualification then applicable with respect to all new applicants for similar Steak-Out System franchisees;

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b. the proposed transferee and its owners have executed a new Franchisee Agreement in the form then used by Franchisor, and satisfied the conditions thereof, other than the Initial Franchise Fee, for an Initial Term coterminous with the remaining term of this Agreement;

c. there shall have been paid to Franchisor, together with the application for consent to the transfer, the Transfer Fee then required by Franchisor;

d. as of the effective date of the proposed transfer, all obligations of Franchisee and its Owners hereunder and under any other agreements between Franchisee and Franchisor are fully satisfied;

e. all current and former obligations of the proposed transferee and its Owners to the Franchisor under all agreements between them have been fully satisfied;

f. the proposed transferee is not an entity, or affiliated with an entity, that is required to comply with the reporting requirements of the Securities Exchange Act of 1934, as amended; and

g. Franchisee and its Owners must execute a new non-competition covenant, in form and substance satisfactory to Franchisor, in favor of Franchisor and the transferee(s), agreeing anew to comply with provisions that are contemplated by the provisions of "Covenant Not to Compete" above.

h. as of the effective date of the proposed transfer, Franchisor shall have forwarded to Franchisee its approval, granted in its sole discretion, of the proposed transfer to the proposed transferee.

i. the proposed transfer is at a price and upon such terms and conditions as Franchisor, in its sole judgment, shall deem to be not inconsistent with market value.

Section 15.4. Additional Transfer Requirements. Franchisor may require, as a condition of its approval of any proposed transfer, satisfaction of the following additional requirements:

a. Franchisee shall have provided the prospective transferee and its owners with the Franchisor's Franchise Offering Circular;

b. except to the extent limited or prohibited by law, the Franchisee and its Owners shall have executed a general release under seal, in a form satisfactory to Franchisor, of any and all claims against Franchisor, its parent, subsidiaries, affiliates and their officers, directors, attorneys, shareholders, employees, and representatives in their corporate and individual capacities, including, without limitation, claims arising under federal, state and local laws, rules and ordinances arising out of, or connected with, the performance of this Agreement;

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c. the transferee shall enter into a written assignment, under seal if required, and in a form satisfactory to Franchisor, assuming and agreeing to discharge all of Franchisee's obligations under this Agreement; and

d. if Franchisee or any of its Owners finances any part of the sale price of the transferred interest, Franchisee and/or Owners must agree that all obligations of the Transferee, and security interests reserved by any of them in the assets of the Unit, shall be subordinate to the Transferee's obligations to pay all amounts due to Franchisor and its affiliates.

Section 15.5. Transfer Upon Death, Disability or Dissolution. Upon the death or permanent disability (as reasonably determined by an independent third party such as a licensed medical doctor) or dissolution of Franchisee, the Operating Partner of Franchisee, or any Owner of a controlling interest in Franchisee, such person or the executor, administrator, or personal representative of such person shall transfer (including by bequest or inheritance) his interest to a third party approved by Franchisor, within six (6) months after such death, permanent disability or dissolution. Such transfers shall be subject to the same conditions as any inter vivos transfer. If the heirs or beneficiaries of any such person are unable to meet the conditions in the foregoing subsections of this Section XV, Franchisor may terminate this Agreement.

Section 15.6. Franchisor's Right of First Refusal. If during the term of this Agreement or for a period ninety days after the termination hereof, Franchisee or any of its Owners, desires to transfer the Unit, or any interest in Franchisee, for legal consideration, Franchisee or such Owner shall obtain a bona fide, executed written offer and earnest money deposit in the amount of at least ten percent (10%) of the offering price from a responsible and fully disclosed purchaser, and shall deliver immediately to Franchisor a complete and accurate copy of such offer. If the offeror proposes to buy any other property or rights from Franchisee or any of its Owners, the proposal for such property or rights must be set forth in a separate contemporaneous offer that is disclosed to Franchisor, and the price and terms of purchase offered to Franchisee or its Owners for the transfer of the franchise shall reflect a bona fide price offered therefor, and not reflect any value for any other property or rights.

Franchisor shall have the option, exercisable by written notice delivered to Franchisee or its Owners within thirty (30) days from the date of delivery of a complete and accurate copy of such offer(s) to Franchisor, to purchase such interest for the price and on the terms and conditions contained in such offer provided that:

- (i) Franchisor may substitute cash for any form of payment proposed in such offer;
- (ii) Franchisor's credit shall be deemed equal to the credit of any proposed purchaser;

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INITIALS